

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

YELLOW PAGES PHOTOS, INC.,

Plaintiff,

v.

Case No. 8:18-cv-1872-CEH-AEP

DEX MEDIA, INC. d/b/a “DexYP”,

Defendant.

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ORDER

This cause comes before the Court upon Defendant Dex Media, Inc.’s (“Defendant”) Application for Attorneys’ Fees and Costs Pursuant to 17 U.S.C. § 1203 (“Motion for Attorneys’ Fees”) (Doc. 137), Plaintiff Yellow Pages Photos, Inc.’s (“Plaintiff”) Motion to Stay Briefing and Consideration Of, Or, In the Alternative, Motion for Enlargement of Time to Respond to, Defendants’ Motion for Attorneys’ Fees (“Motion to Stay”) (Doc. 142), and Defendant’s Response in Opposition to the Motion to Stay (Doc. 144).

To briefly summarize the recent events in this litigation, Defendant moved for summary judgment against Plaintiff and prevailed (Doc. 135, 136). Following entry of judgment in Defendant’s favor (Docs. 135, 136), Defendant filed its Motion for Attorneys’ Fees (Doc. 137). Specifically, Defendant seeks an award of \$772,489.95 in attorneys’ fees and costs (Doc. 137). Shortly thereafter, Plaintiff filed its Notice of Appeal (Doc. 140) as to both the Final Judgment entered against Plaintiff (Doc. 136) and the District Court’s Order granting Defendant’s Motion for

Summary Judgment (Doc. 135). Given the pending appeal, Plaintiff now seeks an order staying the briefing and consideration of Defendant's Motion for Attorneys' Fees, or alternatively, enlarging the time to respond to the Motion for Attorneys' Fees (Doc. 142). Plaintiff argues that staying the briefing and consideration of the Fee Application until after the Eleventh Circuit Court of Appeals decides Plaintiff's appeal will conserve this Court's resources and Plaintiff's resources should Plaintiff be successful in the appeal (Doc. 142). Defendant responded in opposition, arguing among other things that Plaintiff has not demonstrated sufficient reasons to warrant or justify staying of this proceeding and that staying consideration of attorneys' fees and costs pending appeal is the exception, not the rule (Doc. 144).

As Plaintiff contends, however, "deferring ruling on a motion for attorney's fees and costs pending an appeal is a matter within the court's discretion, and courts will defer ruling in the interests of judicial economy." *Truesdell v. Thomas*, Case No: 5:13-cv-552-Oc-10PRL, 2016 WL 7049252, at *2 (M.D. Fla. Dec. 5, 2016) (citations omitted); see *Bowers v. Universal City Dev. Partners, Ltd.*, No. 603CV985ORL18JGG, 2005 WL 1243745, at *1 (M.D. Fla. May 19, 2005) *report and recommendation adopted at* No. 603CV985ORL18JGG (Doc. 168) (M.D. Fla. June 6, 2005). Here, rather than stay the matter, the appropriate resolution is denial of the Motion for Attorneys' Fees without prejudice and, to the extent necessary, leave for Defendant to either renew its motion as is or to submit a supplemental motion following appeal. See *Regions Bank v. Legal Outsource PA*, Civ. No. 2:14-476-FtM-PAM-MRM, 2017 WL 11461033, at *1 (M.D. Fla. Apr. 27, 2017) ("This Court's practice is to

deny motions for attorney's fees without prejudice when a matter has been appealed."). Indeed, such resolution seems most likely to preserve judicial resources, prevent piecemeal litigation of the issue of an award of attorneys' fees and costs, and promote the interests of efficiency and economy. *See Corey Airport Servs., Inc. v. City of Atlanta*, Civil Action No. 1:04-CV-3243-CAP, 2011 WL 13216938, at *1 (N.D. Ga. Apr. 6, 2011) (agreeing that it would be an inefficient use of limited judicial resources to address the motion for attorney's fees with an appeal pending). Accordingly, it is hereby

ORDERED:

1. Defendant's Motion for Attorneys' Fees (Doc. 137) is DENIED WITHOUT PREJUDICE.
2. Plaintiff's Motion to Stay (Doc. 142) is DENIED AS MOOT.
3. To the extent necessary, within fourteen (14) days of the conclusion of the appeal in this matter, Defendant may simply renew its Motion for Attorneys' Fees or may submit a supplemental motion with any further information it seeks to include for the Court's consideration.

DONE AND ORDERED in Tampa, Florida, on this 5th day of April, 2021.



ANTHONY E. PORCELLI
United States Magistrate Judge

cc: Counsel of Record